

D/F

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

O R D E R

Plaintiff,

Cr. No. 03-549(ARR)

- against -

JOSEPH DELHALL,

Defendant.

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ROSS, U. S. District Judge:

Following remand of this case by the Second Circuit for further proceedings in conformity with United States v. Crosby, 397 F.3d 103(2d Cir. 2005), defendant moved for re-sentencing in light of United States v. Booker, 125 S.Ct. 738 (2005). Having reviewed defendant's motion and reply papers and the government's response to defendant's motion, together with defendant's original pre-sentence report, all materials submitted in connection with sentence, and the transcript of the sentencing proceeding, I have determined, for reasons that I will place on the record at re-sentencing, that under the Booker sentencing scheme, I would have imposed upon defendant a non-trivially different sentence.

Accordingly, if defendant wishes the Probation Department to update the pre-sentence report, counsel should make that request of the Probation Department within seven (7) days of the date of this order. If the parties wish to make any further sentencing submissions, they should be served and filed, with courtesy copies to chambers, within fourteen (14) days of the date of

c/m.

this order, or within seven (7) days of an updated pre-sentence report, if such a report is prepared.

The re-sentencing proceeding will be scheduled following receipt of these materials.

SO ORDERED:

Dated: Brooklyn, New York
November 1 2005



Allyne R. Ross
United States District Court

COPIES MAILED TO:

Plaintiff

Charles Kleinberg
Assistant U.S. Attorney
Eastern District of New York
One Pierrepont Plaza, 14 th Floor
Brooklyn, NY 11201

Defendant

Douglas Morris
The Legal Aid Society
Federal Defender Division
16 Court Street
Brooklyn, New York 11201-4859